

May 12, 2008

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
MAY 12, 2008

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
FRANCIS BEDETTI, JR.
PAT TORPEY
JAMES DITTBRENNER

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: KATHLEEN LOCEY

REGULAR MEETING

MR. KANE: I'd like to call to order the May 12, 2008
meeting of the New Windsor Zoning Board of Appeals.

APPROVAL OF MINUTES DATED MARCH 24, 2008

MR. KANE: Motion to accept minutes of March 24, 2008
as written.

MR. DITTBRENNER: So moved.

MR. BEDETTI: I'll second that.

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ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PUBLIC_HEARINGS:

DEBORAH_MENKENS_(08-11)_-_CONTINUATION

MR. KANE: Continuation of Deborah Menkens' request for one additional horse and a variance to permit three horses to be maintained 20 feet from side rear and front property lines in an R-1 zone.

Ms. Deborah Menkens appeared before the board for this proposal.

MR. KANE: Since this is a continuation of the public hearing, Deborah, you're going to just give us a brief overview.

MS. MENKENS: Yes, and I was wondering if I could address Mr. Kean's notebook he had brought in. Am I allowed to do that?

MR. BABCOCK: Just so you have that.

MR. KANE: You can address it absolutely. Mr. Kean's here this evening? No, okay.

MR. KRIEGER: Probably not because the public hearing's closed.

MR. KANE: Yeah, I have no problem with you addressing anything that's in there.

MS. MENKENS: I didn't get to see it prior to, that's the only reason and it caught me off guard.

MR. KANE: Yeah.

MS. MENKENS: Deborah Menkens, 1 Sean Court, Rock Tavern, New York 12575. An additional horse and the existing wood fence I would like to house the horses in.

MR. TORPEY: What's with the fence again?

MS. MENKENS: The existing wood fence which has the, I'd like to take down the electric fence and allow the horses to roam to the wooden fence.

MR. TORPEY: What color's the wooden fence?

MS. MENKENS: Brown and the red is the existing.

MR. TORPEY: And the yellow's the property line?

MS. MENKENS: Yes and the green line is trails that we ride on around the fence.

MR. TORPEY: But the main fence is going to be brown?

MS. MENKENS: Is brown, it's existing.

MR. TORPEY: But the red one's going to disappear?

MS. MENKENS: If you allow it, yes.

MR. BABCOCK: The red one's the electric fence that's 75 feet from the property line, the wooden fence that she wants, she wants to take down that fence, let the horses move out and it varies along the property line the fence, the closest point is we put down 20 feet which was a guesstimate actually by measurements, it's 23 feet.

MR. TORPEY: I was chairman that night, I just was refreshing.

MR. BABCOCK: I'm sorry, I didn't realize you were.

MR. KANE: I'll take the refresher, keep going, Mike.

MR. BABCOCK: The fence by the one property line we

estimated it to be about 20 feet, that would be the closest point that the horses would go to a property line, that's why she's asking.

MR. KANE: Would be the 20 feet?

MS. MENKENS: I brought plans of my own, if I give them out can I get them back?

MR. KANE: Absolutely.

MR. BABCOCK: Mr. Chairman, if you look at the property owner by the name of I'm going to say Fossum behind their property there's a drain at that corner of the property line is the closest point of the fence, you'll see the fence has little x's around it, that's the fence she wants to keep and we estimate that that corner is about 20 feet from that property line and then if you travel north along that fence line you'll get to the corner where it's 27 feet from the property line and 23 feet and then going on the other back line it's 30 feet, 30 feet and then on--

MR. KANE: So the 20 foot is at one point--

MR. BABCOCK: The worst condition.

MR. KANE: And it's at one point and increasingly gets bigger?

MR. BABCOCK: That's correct.

MS. MENKENS: Extreme is 78 feet. Should I continue?

MR. KANE: Yes, please.

MS. MENKENS: Mr. Kean had brought up the fact that he wasn't on the mailer, so I e-mailed Tod Wiley (phonetic) in the assessor's department and he wrote back that it was a human error that Mr. Kean wasn't

placed on the mail cause I wasn't sure why his name wasn't on there either.

MR. BABCOCK: Mr. Chairman, as you know the town makes the list who the letters have to go to. Mrs. Menkens has nothing to do with that. Mr. Kean indicated that he wasn't on the list and we didn't know why so she's got some explanation from Tod Wiley the assessor why it didn't happen but he was here that night, the attorney said that since he was here I shouldn't put words in Andy's mouth it was fine, you know.

MR. KRIEGER: That's okay but regardless of the notice it's a moot issue, he knew about it, he was here and he was heard so--

MR. KANE: That's a moot issue now we know why. You can continue.

MS. MENKENS: Okay, Mr. Kean's property line is next to my property line but in reality he's three miles from where I live, he's not someone I barbecue with. In 2006, I had a survey done, that's the survey you have in your hands and when they surveyed the property, my surveyor had placed those metal rods into the ground so what I've got here are a few pictures of the metal rod and property.

MR. DITTBRENNER: Can I just for a point of clarification you said Mr. Kean's property is three miles away from you?

MS. MENKENS: His home is.

MR. DITTBRENNER: Lands of Nadis (phonetic) are his property on the map that you provided me?

MS. MENKENS: Right here.

MR. DITTBRENNER: That's his property?

MS. MENKENS: That's his property but he lives three miles from my home. I didn't know what to do because Mr. Kean had said that I was taking 14 feet of his property so what I did was from the corner of the fence to the metal rod I measured it and it came out to 44 feet. That rod is also Mr. Steel's property rod and I took a picture of the rod that's in the ground and then the rocks and everything that's surrounding it.

MR. BABCOCK: Mr. Chairman, just to bring you up on that on the back property line where it says Nadis the 23.5, the 30.5 and the 30.7 Mr. Kean submitted a survey from a Bill Hildreth that shows that those numbers are off but they're off about six inches if they're off, this is a certified surveyor, Anthony Sorace, that says they're accurate so somebody's off about six inches, not 14 feet.

MS. MENKENS: Well, he has his photograph in here.

MR. BABCOCK: Well, as far as the property line's concerned it's really close to where it actually is.

MS. MENKENS: But I'm concerned about his picture.

MR. TORPEY: Six inches is a big difference from 14 feet.

MS. MENKENS: In one of his pictures he has me as 14 feet.

MR. BABCOCK: Yeah, what he's saying is that she has done cleaning or grubbing or something 14 feet onto his property, that's what his claim is in his thing there.

MR. KANE: What else you have, Debbie?

MS. MENKENS: I also have a picture of the center of the property line with a photograph of the, at the

right-of-way pole and a marker showing my property line. Mr. Kean claims that he owns the pole, the Central Hudson pole. This next one is the property line with the marker in it and I measured from the marker to the fence and that was 36 feet, that's by Mr. Decker and on the corner of Mr. Kean.

MR. BABCOCK: Mr. Chairman, the one that she handed you that says posted no trespassing, if you look on her survey right in the north part of the property where it says 30.5 you'll see a little round circle that indicates that pole is on her property and it says cable marker five feet south of line so it is five feet into her property so this picture would appear to be correct with this.

MR. KANE: Right, the one that shows the steel pole boundary.

MR. BABCOCK: And the 31, 36 feet that she's saying the fence is off or 35 feet would be correct because it's 30 feet plus.

MR. DITTBRENNER: No, it's not correct.

MR. BABCOCK: It's a little bit off there but that's okay.

MS. MENKENS: Mr. Kean is upset about this fencing that I have up, it's a wind breaker and it controls debris, it's just made out of plastic. I took a picture of it along Mr. Kean's property line, I did so so you could see and I can tell you why I have that up there. First of all my children play out back and I put the fence up so that they would know how far they could go because if they went any further than that fence they would have a 15 foot drop onto the debris that Mr. Kean has been dumping there to grade the railroad bed, so that's why I have that plastic fence up there for my children's protection. I don't know if I need a permit

for it, if I do I'll file for one. Next one was a picture of the sign that I have, when I went for my certification for the New York State Health, Horse Health Program, I needed to have a stable name and I needed to have a phone number so in case there was an emergency someone can contact me right away. I am not running a business out of the barn. I also have other signs, they're on the property, caution, kids, my back yard's a certified habitat and of course the no trespassing and one of the most important is keep the gate closed. If I need a permit for the sign I'll apply for one, I don't know if I need one or not cause the sign is the size of a typical real estate sign. Okay, want me to keep moving on?

MR. KANE: Yes.

MS. MENKENS: The next picture I have was Mr. Kean said that I was storing manure around my well and manure by law has to be at least 100 feet away from the well, what I have here is a picture of my well which has a 6 foot by 6 foot fence around it and it also shows that there's no manure storage there whatsoever. I pick up the manure every day so nothing sits around on the property. Mr. Kean also stated that when it rains the manure is contaminating his pond. His pond is a half a mile from my property. When it does rain--

MR. KRIEGER: So although he lives three miles away he has a pond that's only a half a mile away, is that correct?

MS. MENKENS: To ensure that there's no manure contamination we built a rain pond what it does it fills up when it rains and then when it stops raining in three or four days the pond drains. Here's some photographs of the rain pond. This was all done because AEM soil and Orange County soil and water had said that this was the best practices. My last one is a Orange County tax map, it has in green my farm in

blue Mr. Kean's property and in purple is the other horse farm. Their horse farm's quite closer than mine. I sent a letter to Mr. Kean requesting that he stop trespassing.

MR. KANE: That has nothing to do with us, ma'am.

MS. MENKENS: He accused me of taking down a historical fence, the historical fence is a rotted old barbed wire fence which I needed to take down on my property because my children play out in the back yard. He talked about the millions of pounds or thousands of pounds a year of manure. This is my manure bucket, with two horses I fill this bucket once a day, bring in an additional horse would actually add half more bucket and I have a cart that's 8 x 4 and the cart takes three weeks for me to fill up to transport to Ace Farm. I'm done.

MR. BABCOCK: Mr. Chairman, just a little to clarify one thing I think the board members know I don't know if Andy's getting all this stuff, she made a statement that Mr. Kean lives three miles, he should look at that because that's as the over the road, yeah, you know, you have to go out Toleman, down 207, back in Station Road back to his house.

MR. KANE: But according to this drawing she gave you can see that his property comes just within her's right up there so I mean he basically has a right to bring up what he wants to, he's within that zone.

MS. MENKENS: Absolutely.

MR. KANE: Yes, I already picked that up, Mike.

MR. KRIEGER: Yeah, the question of where he actually is domiciled is not really germane to the discussion, he has property, what he does with his property and where he's cited his residence is no business of the

zoning board.

MS. MENKENS: Well, I think it's also important to let people know that because he claimed that he could have saved the integrity of my neighborhood when in fact the integrity has rebounded wonderfully, there's four children more in the neighborhood playing with my children, we hang out and it's a pleasant atmosphere.

MR. KANE: Okay. I'll accept a motion, that's where we're at.

MR. BEDETTI: I'll make a motion that we grant the variances for the extra horse and removing of the electric fence to the existing wooden fence.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	NO
MR. BEDETTI	AYE
MR. TORPEY	AYE

MR. KANE: Before I vote one stipulation on your thing it says that the horses are, variance to permit three horses to be maintained 20 feet from side, rear and front property lines, I would suggest that the wooden fence be kept the way it is where there's only 20 feet at one point and it goes out to 30 to 70 that that doesn't move out if it's approved moved out to--

MS. MENKENS: It's going to stay where it is.

MR. BABCOCK: It's got to be per the plan that she's submitted.

MR. KANE: Right, per the plan that she's submitted. Is that okay with you? Make that addition to your motion?

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MR. BEDETTI: That's fine.

MR. KANE: I vote aye.

MS. MASON: Motion is carried.

HENRY_VAN_LEEUWEN_(08-12)

MR. KANE: Next public hearing is Henry Van Leeuwen request for the following variances for proposed lot number 1, proposed lot number 2 complies with zoning and as referred by the planning board, 36,311 square feet gross minimum lot area, 4,311 square feet net minimum lot area, 4 foot front yard setback all at 345 Beattie Road in an R-1 zone.

Mr. Henry Van Leeuwen appeared before the board for this proposal.

MR. VAN LEEUWEN: Good evening, folks, how are you?

MR. KANE: Good.

MR. VAN LEEUWEN: What I want to do is I want to, I'm going to be 70 another couple months and I want to give the kids the houses, I can't take them with me whether I go to heaven or hell, you can't take them with you, doesn't work.

MR. KANE: That's true.

MR. VAN LEEUWEN: The house I'm giving to my middle daughter.

MR. KANE: So just like the preliminary meeting tell us exactly what you want to do.

MR. VAN LEEUWEN: This is all one piece of property, this was split one time many years ago and then the assessor at the time was Flip Weyant he suggested that I do away with this line. Now I want to put this line back and I want to give this one to my middle daughter, this is going to my youngest daughter and as you know from last time I'm going to go here.

MR. KANE: Is there anybody here for this particular

hearing? Okay, just going to send back a little note so you can put your name and address on it, it's for the stenographer so she has that information when the public portion of the meeting is open then just state your name and your address and ask whatever questions you have. Go ahead, Hank.

MR. VAN LEEUWEN: Everything stays as is, nothing being moved.

MR. KANE: So what we basically have to clarify is we have existing two existing homes on one parcel?

MR. VAN LEEUWEN: Correct.

MR. KANE: One piece of property and we're looking to divide that so that they're two separate pieces, taxable pieces of property?

MR. VAN LEEUWEN: Correct.

MR. KANE: And there's not going to be any new building on either one of those, everything is existing?

MR. VAN LEEUWEN: Yes.

MR. KANE: Any further questions from the board at this moment?

MR. BEDETTI: Just a question now you don't own any other property around that surrounds the--

MR. VAN LEEUWEN: Around here, no, across the street I have 45 acres.

MR. BEDETTI: So there's no way that you can actually have added to the small lot and make it, to make it in compliance?

MR. VAN LEEUWEN: Nothing I can do there, no.

MR. BEDETTI: That was the only question.

MR. VAN LEEUWEN: I have 44 acres of swamp across the street, it's all wetlands.

MR. KANE: At this point, I'm going to open it up to the public and ask if you have any questions? If you want to see what's going on?

MR. GUZMAN: No, we don't have any questions.

MR. KANE: Do you understand what's going on with the piece of property?

MR. GUZMAN: Generally speaking.

MR. KANE: Come on up, we want you to understand so that you know you're here for a reason so Hank just show them what you're doing with the property.

MR. VAN LEEUWEN: Well, they got a letter.

MR. VAN LEEUWEN: This is Beattie Road, I live here and this is my carriage house, was my carriage house which I'm giving to my middle daughter, I can't take it with me.

MR. KANE: Show them the property line where the property line will be.

MR. VAN LEEUWEN: Going down here.

MRS. GUZMAN: You've had this property the line you took it out?

MR. VAN LEEUWEN: Thirty-six years ago.

MR. KANE: So it will become two taxable lots instead of the one lot with two homes on it so there will be no

new construction, no new anything there?

MR. VAN LEEUWEN: Eventually if they put an addition on to the house that's up to them, nothing to do with this right now.

MR. KANE: Okay, any further questions?

MR. GUZMAN: No.

MR. KANE: Any problems with the project?

MRS. GUZMAN: No, just wanted to be informed.

MR. KANE: Thank you very much. Anybody else for this particular hearing? Seeing as there's not, we'll close the public portion of the hearing, bring it back to the board for any further questions. I'll accept a motion then.

MR. DITTBRENNER: I will move to approve the variances as presented on 345 Beattie Road as requested by Henry Van Leeuwen to reposition a lot line subdividing that property into two parcels.

MR. TORPEY: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. KANE	AYE

ED_BIAGINI_(08-13)

MR. KANE: Ed Biagini, request the following variances for proposed lot number 1, lot number 2 and 3 all as stated on the agenda all at Little Brook Court in an R-1 zone. At this point, I will also ask if there's anybody here for this hearing? We'll be passing around a sheet again, just put your name and address on it, it's for the stenographer so she has it for the minutes. When we open it up to the public portion you'll be able to ask any questions or make any statements you want.

Steven Reineke, Esq. and Mr. Gerald Zimmerman appeared before the board for this proposal.

MR. REINEKE: For the record, my name is Steve Reineke, I'm the attorney for the applicant and up here with me is Gerry Zimmerman, he's the engineer who prepared the plans. What we're seeking tonight are variances that if granted will allow the property owner to apply to the planning board for a formal subdivision of a portion of the lands located and Little Brook Court. The variances that are needed consist of a number of items, all three of the proposed lots require overall area variances, the front yard, excuse me, lot width, two of the lots require a variance front yard, one lot requires a variance and side yards one side and total one of the lots requires a variance. These lots are all significantly larger than what was required at the time that Toleman Estates was originally approved and just to give a general feeling as to how these lots relate to the other lots that were approved at that time. I'd just like to go over the requirements that existed because essentially what we're looking to do is to recreate lots that are similar to the character of what exists in that subdivision. When this subdivision was reviewed by the planning board initially back and finally approved in '73, the area requirement was 15,000 square feet. We currently need variances and

yet our proposed lot areas range from a small 29,729 square feet to 38,287 square feet and the largest lot is 47,770 square feet so if you related those to the zoning requirement at the time the other lots were created, we're two to three times larger than what those standards were and we're significantly larger than all but four of the, excuse me, five of the lots in the existing subdivision. The lot width where we do require variances on two under the current zoning when this subdivision was processed the lot width requirement was 100 feet, many of the lots are right around that size existing, our lot width will be if this moves forward 137 feet, 139 and 199 so again we're significantly over what was designed when this subdivision was processed. Front yard again we require a variance on one lot only. At the time this was originally approved, the front yard requirement was 30 feet, our front yards will be 38, 46 and 59, so again significantly over the original design standards and the minimum side yard and then both total side yard requirements at the design time was 15 feet and then a total of 40. What we're proposing is smallest is 20 feet on one side, 75 total and it goes to 48 and the other one is 41 and 91. So what we're looking to do is to create three lots which while still larger than most of the lots in the original subdivision certainly are in general keeping with the neighborhood that's there. I do have a copy of the filed map, I don't know if any of the board wanted to take a look at that, just want me to put it up here on the board as well. And just for identification purposes, the subdivision has a big road layout in the center and this area designated as proposed open space is the area that we're looking for the variances on. Again, if this board were to grant the variances it does not approve the lots, it merely allows the planning board of the town to review an application at which time we would have to demonstrate compliance with all the sanitary code distances between wells, septic, satisfactory percolation, satisfactory water supply, the impact on the neighbors' probably is

not an issue here but also impact with the addition of three lots on the traffic loads for the lots. That is basically our request to the board.

MR. KANE: Preliminary meeting I did ask or suggested that maybe you make a presentation on putting two homes instead of three dividing it two ways instead of three ways are we going to address that or no?

MR. REINEKE: I addressed that with the applicant then we would have had lots that are significantly larger than even the biggest of the lots that are in here.

MR. KANE: Yet still under the current new zoning.

MR. REINEKE: Still would not meet the current zoning, correct. Right now, you have 46 lots that are just slightly over 40,000 square feet and two lots that are in the 30s, one is 31, 8 and one is 35, 4. So if we were to take the 12,000 and try to divide it into the other two we would be looking at roughly about 50,000 square foot lots, again significantly larger than what's there and certainly larger than the lots that about the proposed area where you've got--

MR. KANE: But also one less well.

MR. REINEKE: Yes, well, if we, you know, as the planning board has us doing the test and it showed we had that problem we would have to abandon that but that's something we'd have to clear with the planning board.

MR. KANE: Okay, other question from the board?

MR. BEDETTI: Other than the fact that two lots would be larger than existing lots in there, what other reason would you have to not make just two building lots instead of three?

MR. REINEKE: Economics, cost in cleaning the property up, it had really been kind of used as a dump, there was drainage work that had to be done which has been put in place, you know, worked with the town but it's basically a question of economics, what would be marketable, you know, at a reasonable price in that neighborhood.

MR. BEDETTI: As far as cleanup, you'd have to clean them up for three as well as two.

MR. REINEKE: Yes.

MR. KANE: Okay, at this point, I think what I'm going to do is open it up to the public, let's hear what they have to say, what questions they have. You'll raise your hand, I will ask you to come up, please try not to be repetitive, speak loudly, give your name and address. Okay, and we'll start with you, ma'am.

MS. MULLADY: My name is Bernadette Mullady. Now I was there in 1973, I'm one of the first homeowners and Vincent Biagini was building and I remember that map, the map that I have at home and my husband asked why aren't you continuing to go around the neighborhood in a horseshoe and we were told by him and I think by folks here in 1973 they were never going to be able to build there because don't you know the name of this street is Little Brook Court? Oh, yes, we heard the babbling brook all the time and in the spring it babbled up and babbled over. Now that was all woods. Then a neighbor I guess somehow in New Windsor got to buy or borrow this property and he cut down all the woods area and put some horses there. Now we have lots of and lots of yuck and mud, the stream that didn't have the trees, horses that were there and we were really afraid of the kids falling into a lot of pools. I mean, it was a tremendous amount of water. It's true it's a lot of property but we thought the property was not usable. I'm very surprised to see now that you

said you cleaned up the area, what you did was you brought truck loads and truck loads of dirt to cover, I saw the piping that went in but what about in nature that spring that comes up and it will come up again, I mean, you better know that you better go out there if you're aware of this property and see what's going on there. I mean, it looks fine now and we're going into the summer and it will look very, very fine in the summer but come the winter and the spring again when all that comes up we're all afraid that water's going to go someplace else and I feel very sorry for any homeowner who would put their life savings down on this property, and I really did and I will speak to the, to the homeowners and caution them what's underneath the ground. And you haven't mentioned that, I'm surprised about that, I understand the lot size, don't worry about that, we're not worried about that, but we're concerned about--

MR. REINEKE: Is it all right to respond?

MR. KANE: Yes.

MR. REINEKE: That is something that would be a planning board matter, they would be the ones that if they felt test holes were required to determine what's underneath.

MS. MULLADY: Well, some kind of a variance or some sort must have been given because it looks like a foundation to me that's already put in place so where did that come from that was approved?

MR. KANE: Only variances have can come through this board and none has come.

MS. MULLADY: Well, there's an outline of a foundation there.

MR. KANE: We're not here to, actually their house is,

that foundation was put in with a building permit.

MS. MULLADY: With all that water underneath?

MR. BABCOCK: Well, they're allowed a building permit for that.

MR. KANE: Ma'am, you had your chance to speak, please let them finish.

MR. BABCOCK: And he actually put it too close to the property line, that house was supposed to be 40 feet from the property line as that's one of the variances that he's applying for now that's why it is just sitting there with a foundation.

MR. KANE: Now I understand what that's there for. Sir, name and address?

MR. AMENDOLAGINE: Pat Amendolagine, 28 Little Brook Court. Our attorney was supposed to fax over a letter today to the planning board, we would like that read into the record if that was at all possible, please?

MR. KANE: In due time, sir.

MR. AMENDOLAGINE: Couple of questions we'd like to address is the problems with three additional wells in that area. All the neighbors that have come over here tonight have all experienced water problems that have to, we have had to have our wells re-dug numerous times. Now you put an addition all three wells it's going to create a hardship on the rest of the community. And as far as the septic goes, we looked at the plans and where the septic is the one house is right next to my property, they have the septic right by the little brook. That's all wet, the little brook runs right through there, I mean, you don't have to be an engineer or a scientist to figure out you're going to put three septic in an area that's been wet for I

have been living there for 26 years and you don't need an engineer to go out there and if your feet are stuck in the muck, you know, it's wet and they're going to put another three septic over there plus the addition of three additional wells when the area already has a hardship of water. It doesn't make any sense. And like we said the variances to have a house built 40 feet off the property line the foundation's already been, put up without a variance on it.

MR. KANE: Which means it's wasted money until they get something, that's what it means, it doesn't mean anything, it means nothing, it means that they went ahead before they had the right to do it, they invested some money and depending on the outcome of what happens in here it's either money well or badly spent.

MS. AMENDOLAGINE: Our concern is septic on three additional houses, the septic comes up during the spring and winter, I don't have to tell you, somebody that comes by, an odor that's going to create the effect, the property of, our houses are right now my house is on the market, someone goes on my deck and staring right in front of them is a foundation that's there illegally that's going to hurt the effect of that, I'm trying to sell my house, so there's a lot of things to consider. I've been living in that area for 26 years and we were told by the neighbors who were in that development originally that that piece of property was offered to the town as a playground but the town refused it cause it was too wet, they didn't want to touch it and now 35 years later trying to put three houses on it. That's really all I have to say, sir, and if we can have the letter read into the minutes.

MR. KANE: It will be, we do it after the public portion.

MR. AMENDOLAGINE: Thank you.

MR. KANE: Next, sir?

MR. GRELLA: Donato Grella, 18 Little Brook Court. Just on that little side of that Little Brook our neighbor stated it very, very well, from 1973 I want to bring up to modern times that Little Brook on that corner is right now saturated with still water, the fear is West Nile Virus, the fear is mosquito infestation without proper drainage we're skeptical because variances obviously were allowed somewhere along the way, if not, tear down what's up and let's start the right way by getting variances. That's why we're all here. How anyone would just take a piece of property and put not even a risk factor but put a quasi building and come before the board and say we want to put up three, we had to hydroblast our well early this year, that's how bad it was. Number two, that Little Brook does bubble up now, I have seen water come up to our line and now the gentleman was asked did you do something about the drainage, he did, he poured rock, the rock is like a dam that stops the water from going into that little drainage he's got, there was a pond, a very livable pond for frogs, for the birds, for whatever was there, now that's all covered up like my neighborhood all they did was pour more dirt on top of wetland and I too when we moved in said gee, let's see if we can buy this piece of property, you can't build, it's wetland, we were told now people in government at least tell the truth, all of a sudden, boom, we see trucks moving in, we see earth movers moving in. How come? Fortunately, you sent us notices, that's why we're here now to stop this insanity. If it's wetland let's look at the wetland but the fear is West Nile and mosquito infestation, they're not going to get rid of that the way it looks now.

MR. KANE: Next?

MR. DOMINGUEZ: My name is Edison Dominguez, 15 Little Brook Court. I have been here for ten years but I've

seen the property, basically, it's all wetland like they say, they poured concrete, they poured everything, they've got a pipe going out, you know, flushing the water to Pat's side property which eventual is going to flood up because when water hits I seen houses about all the way, the basements are full all the way to the top, I mean, sometimes I even have water problems, I had to replace and get new piping done this week so I mean looking at the property and I'm also worried about my well, the water cause I mean Pat, Bernadette, they had to blast further down another \$15,000. I don't mind anybody making a dollar but if you're going to affect the neighborhood where we have to spend more money while you make a little bit extra money that I have to think about, you know, if we have, we have to think about water, you know, our kids, you know, it's going to pollute the water or you know like they said if someone buys a house, it's a fact that that basement will be flooded eventually. Like when I bought my house, I didn't know water was coming out, about a month, three heavy rains my basement was, I was already covered up to here with water and it happened again, this time I had to take action, spend all my hard earned money to fix it and that's the way it is, I mean, you know.

MR. TORPEY: Maybe all the water's coming from the wells that are drying up?

MR. DOMINGUEZ: I don't know. That's all I have to say.

MR. KANE: Okay, thank you. Anybody else? Please come up.

MS. SIEGEL: My name is Jocelyn Siegel, I live at 14 Little Brook Court. I cannot claim to have lived there that long, only lived there two years. But I'm going to echo everything my neighbors have said, I'm not going to repeat, I just want to say I do agree with

everything they said. I do want to add one thing just to speak to the variances themselves, I used to live on Long Island in Ronconcomo, if you've ever been on Long Island, it's one of the most overdeveloped sections of New York I think that's possible on earth, they put houses ten feet from one another and plant things and it's very interesting. I would ask that you not put three lots in that corner, if you're going to put houses there at all which again I'm echoing what they said, but I believe three lots is too many. I do understand your argument about how the lots are closer together but I think that the larger lot size that new Windsor is looking for now is a wiser way of developing the lands, I believe that crowding houses is a huge mistake and that to stop Long Island from coming up here which is why I left, you need to stop things like this, and I think a little bit more wisely about placement of houses, the one that's there now because there is in fact a foundation there as one of my neighbors did say there's foundation already about 15 feet from the line of the property of the neighbor next to them, the person who lives in whatever house that they're building there if they continue will have a lovely view of trees directly, you know, out the window if they put windows on that side. That's no way to put a house, that's no way to live a life, it's no way to crowd people in, its a very nice small neighborhood. I'm very happy, I live there, I really, Long Island's very, very crowded, I would prefer to see it less crowded, two houses would make more sense to me honestly if you're going to put houses there at all. I agree with the water most definitely but if you're going to do this I would just say think about it a little more carefully instead of trying to crowd. I understand the economics, I know builders you want to make as much as you can but if you can think about it a little bit more smartly instead of piling people on top of one another, think about giving everybody a little more room so it will continue to be a nice pleasant neighborhood for people to live and again just coming

in as sort of a newcomer only two years I like the neighborhood, I think I prefer to see everybody have a little space.

MR. KANE: You live there six days or 60 years, it doesn't matter.

MS. SIEGEL: I have my own opinions but as a relative newcomer compared to others I still love the neighborhood, still like to see it not become Long Island honestly if you could. Thank you.

MR. KANE: Thank you.

MR. DURSO: I'm John Durso here with my wife, we're 30 Little Brook Court, the foundation that's up next to Pat's lot and we have been there 24 years back when Al Foster used to own the property, not only did Al used to say that the land was unbuildable, that's why I couldn't, because he had the horses, we found out from other sources it was unbuildable Mr. Biagini back then never finished the neighborhood, that's why. Is the pond on these maps? Do you have any reference to where that pond was? There was a good sized pond that was there for all the years that we have lived there and as this gentleman said about there was animals, you know, frogs, turtles that have lived in that wetlands or what they did when they brought the trucks in to start clearing, they dug trenches, dropped pipe and moved the water and just covered it with dirt and one weekend it was dump truck after dump truck after dump truck, started Friday night through the weekend of dirt coming in and leveling it. They had a backloader, a backhoe digging a hole. I walked over and spoke to the driver, looked in the hole cause I even made a joke when I saw the bucket in the hole, what did you find, a body. And he laughed and I looked down, he dug it to see where the water table was, it is roughly four foot down from the surface presently there now and it was all the way, he was all the way on the far end closer to this

gentleman's property not by Pat's property. The land was always wet all the years we've lived there. I don't want to rehash what everyone said, water would just run off the property. All they did is bring the dirt level up, apparently the water's already risen because they dug through the new dirt, there was the water, I wish I took pictures, I didn't, it's there, the town could test that. We're concerned with septic, we're not trying to stop houses from being built, we're not crying about that but maybe two homes is the way to go if any homes, if the land is buildable, I mean, we were told everybody was told it was not buildable all these years, why didn't Mr. Biagini in the first place build on it back then? He built everywhere. He would have built there too if the town didn't stop him. That's our concerns. It's really septic and the wells. I've had to have my well dealt with several times and blasted that was the last thing I did a few years back so we all have a, we're concerned with not only the water of the wells where could the water from the leach fields possibly go if that land is that wet and the pipe that they put in goes now the length of the property and it just the foundation that's presently there they kept bringing dirt in to move it further, further back, drop another section, another section of pipe, cover it to where it presently ends and it runs the 24-7, so its way at the back corner, right rear corner, I don't know, I would say it's the southern corner now but that pipe originates all the way on the other end of the property where the pond was. So I just like I said I brought it up cause I don't even know if you knew there was a pond for the last 30 something years, it's there since we have moved there so and that's where the horses used to drink out of, what that was was their watering hole so I just want to add a few little things but I thank you for your time.

MR. KANE: Thank you very much. Anybody else? I just want to make sure everybody's had their say or any

questions? Seeing as there's not, we'll now close the public portion of this meeting, bring it back to the board, ask Myra how many mailings we had sent out?

MS. MASON: On April 25, I mailed out 31 addressed envelopes.

MR. KANE: And we did receive back from Jacobowitz & Gubits, Counselors at Law, a letter that I will read, I will read, I have it, it will take a couple minutes so--Dear Chairman Kane and Board Members: We have reviewed the above-referenced area variance application on behalf of Patricia and Patrick Amendolagine who own and maintain their residence at 28 Little Brook Road which is located to the east of the proposed three lot subdivision immediately adjacent to proposed lot number 1. The applicant has submitted an application seeking to develop three lots from property that could only yield one lot pursuant to the existing R-1 rural residential zoning. The R-1 rural residential zoning district requires a minimum gross lot area of 80,000 square feet per lot, therefore, total of 240,000 square feet for the proposed three lots. Total gross area of the existing lot seeking to be subdivided into three lots is 186,000 square feet. The applicant therefore has less than one half the lot area required to develop three lots in this zoning district. Similarly, not one of the three lots comes close to meeting the minimum lot net area required to develop a lot in an R-1 zoning district. Furthermore, lot number 1 which is immediately adjacent to the Amendolagine's home requires substantial variances from the minimum lot width and side yard requirement and a variance from the front yard setback. It is difficult to appropriately analyze this support for the requested variances because the support consists of a total of three sentences to justify granting such substantial variances. Incredibly, the applicant concluded that the subdivision would create no adverse impact on the public safety, health and welfare without offering any

support for that conclusory statement. And in fact support must be taken into account that all three lots are proposed to be supported by individual wells and septic fields. As I'm sure this board recalls of the overriding purposes for the town to recently re-examine its zoning code and create minimum gross and net lot areas in residential districts such as this was to address the potential adverse impacts on ground water from the prevalence of the individual wells and septic on smaller lots. The most generally accepted engineering standpoint is that it takes a minimum of one and a half acres of land to develop an individual well and septic field that will continue to function for extended periods of time. Additionally, the Town's proposed Comprehensive Plan lists as one of its goals to protect ground water in areas without central water and sewer service. For this reason alone a potential adverse impact on the ground water would support your board's denial of the requested variances. Furthermore, the sheer magnitude of the variances requested which would triple the density permitted on this lot within of itself justify denial of the area variances. The New York State Court of Appeals has held that the larger the magnitude of the variances requested the more likely it is that a proposal may have a deleterious impact on the neighborhood and be destructive to community zoning scheme. See *National Merritt v. Weist*, 41, NY2d 438 (1977). Additionally, the difficulty is self-created since the developer purchased the property knowing the zoning and laid a foundation for a home on proposed lot number 1, which was located only 20 feet from the side lot line in violation of Town zoning. The laying of the foundation is subject to an Order to Remedy the zoning violation issued by the Town of New Windsor Building Department. The application contains virtually no information examining or analyzing the detriment to the health, safety and welfare of the neighborhood or community by the grant of such large zoning variances. Furthermore, the only benefit cited by the applicant is that the

variances would allow them to develop three single family homes on a lot that would only yield one pursuant to the Town's zoning ordinance and would allow them to address the Order to Remedy the zoning violations which they created. Finally, there are significant drainage problems existing in the neighborhood based on the Amendolagine's living in the area for over 20 years, which would only be exacerbated by creating three lots out of a property that would only appropriately yield one lot. For all the reasons stated above, this requested variance must be denied. Thank you for your consideration of these comments. Very truly yours, John C. Cappello. And that's read into the record and part of the minutes. Brought back to the board further questions from the board?

MR. TORPEY: No, well, let me ask this. Did you gentlemen want to address any of the issues that the residents of that particular area brought up?

MR. REINEKE: Well, I certainly acknowledge the concerns that the residents have raised but they're certainly legitimate concerns, same concerns raised in the correspondence that you have read into the record from their attorney as to, you know, septic, wells, those are also legitimate concerns and I would agree that if this were, the board that made the determination, final determination as to whether or not those lots could be built upon, those are matters that we would certainly have to provide much more depth in terms of information for your review. However, as I noted earlier, the requested variance that we're seeking from this board is not an approval to build anything, it's an approval that simply allows us to go to the planning board which has the obligation to view all of those concerns that were raised, water impacts, wells, septic separations, existing ground conditions, depth to ground water, those are all areas that the planning board through its members and through its consultants and engineer--

MR. TORPEY: We're just doing a variance of the property lines, that's it.

MR. REINEKE: You can't grant us the right to build, we don't have a right to build.

MR. TORPEY: We're just doing variances for the lots, that's it, nothing to do with wells, nothing to do with wells or septs or anything else.

MR. KANE: Well, we never have.

MR. REINEKE: If we can't demonstrate that to the planning board and their engineers then, you know, we can't build regardless of whatever variances are granted. So I, again, I don't want to say that those concerns that they have raised are not legitimate concerns, they certainly are.

MR. TORPEY: Nothing to do with this board.

MR. REINEKE: But I believe that's something that would be addressed by the planning board with its consulting engineer.

MR. KANE: Public portion is closed. I tend to disagree a little bit in that as far as septic and wells we have always been provided with a lot of information because we're actually the board that determines whether you can build or not on that piece of property. The planning board will decide how you do it. If you are in front of us we decide if you can even do it within the parameters that you are looking for so getting that information as far as wells and septs is important information for us. We can't tell you how to do the septic, we can't tell you how to do the wells, but if there's a concern for it we've heard from other representatives about their issues with the water so just a little disagreement on whether, how we

handle that.

MR. REINEKE: We couldn't, again, just as follow-up on that, if this board would want septic designs and, you know, ground testing that's something we certainly would be prepared to supplement the application, if you want to see that before acting we're going to have to do the testing anyway for the planning board, so it's not something, you know, that's going to disappear and if you want it first we have no objection to that.

MR. TORPEY: I'm just confused, Mike, which way if there's too much water there how can the wells be going dry if there's not enough water, how is it going to affect the septic? I'm confused like there's so much water there but we have no wells.

MR. KANE: I'm not an expert in that area, all I can tell you is that you may have a ground water area where the water is sitting and it's not drinkable type of water, you're drilling for wells down to a depth of I don't know where you guys are, 200, 300 feet 500 feet and I do pools out in Carmel, I'm very familiar with wells, at least with how deep you have to go get it and again not being an expert, Pat, I think there is a difference in that type of water that we're talking about. That's all I can say on that.

MR. TORPEY: I don't understand it.

MR. KANE: Just that we've had more information about that up front so that we could make a decision that's beneficial both to the applicants and to the neighborhood so be that as it may, any further questions from the board?

MR. DITTBRENNER: Was there a pond that you're aware of and can you demonstrate where on that map it was?

MR. TORPEY: Is that a manmade pond?

MR. ZIMMERMAN: Yes.

MR. BABCOCK: Do you have it, Mr. Chairman?

MR. KANE: No, we don't but I saw it, it's pretty substantial. Any further questions from the board?

MR. DITTBRENNER: What are your proposed remedies to mitigate this surface water problems?

MR. ZIMMERMAN: Well, the plan has we're depicting now I mean the applicant to a large extent has done quite a bit of that work and what he's done is put in a collection system drainage system, a pipe and catch basins to collect the water from the site and bring it through the site and outlet it where it currently did before. So that's been done and, you know, we did get a building permit to build the one house and the balance of the property we just looked at and, you know, initially he wanted to try to get four lots and that didn't work so we started, you know, trying to see what the best use of the property would be and how he could develop it as effectively as we could. And I think the plan that's before the board is reasonable, I think that the drainage system will work and we have indicated where the house wells and septs are going to be, appropriate separations that the regulations require and I know we're still in the process of developing this further with at least with the planning board and if we need to we'll do it with your board.

MR. TORPEY: You got that on the map, Mike?

MR. BABCOCK: Yes.

MR. DITTBRENNER: Undisturbed land tends to create its own drainage system, you said you have created a drainage system across these lots, did you concentrate where the property's are going to drain? Where did it

originally drain out and did you concentrate where it's going to drain and explain to me on the map where it does drain to and whose property it affects?

MR. ZIMMERMAN: So this area here on the old plan is obviously all of this and the water came in, drainage came in through here and through the property and outlet at this portion of the property, so it ran through like basically cut through and then one of the previous owners before this applicant took the drainage coming through and kind of built a pond through here so the water accumulated here and overflowed and still ran out in the same place. This owner what he's doing is he's picking it up at this point where it enters the property rather than letting it continue right through he diverted it through some piping and brought it through the collection system and basically is outletting it in the same location as it did before.

MR. KANE: Any further questions? Hearing none, I'll accept a motion, remember all motions must be made in the affirmative.

MR. BEDETTI: I'll make a motion that we grant Ed Biagini the variances for lot 1, 2 and 3 as suggested for the Little Brook Court in an R-1 zone.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	NO
MR. TORPEY	AYE
MR. KANE	NO

MR. KANE: Motion is denied 2-2.

MR. REINEKE: Thank you.

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MR. KANE: Have a good evening.

SIGN_LANGUAGE_FOR_NEW_WINDSOR_BUSINESS_PARK_(08-09)

MR. KANE: Next public hearing is Sign Language for New Windsor Business Park, request for a 14 foot 9 inch width for proposed wall sign at 460 Temple Hill Road in a PI zone.

Mr. Thomas Walsh appeared before the board for this proposal.

MR. KANE: Just like the prelim, you've been through it before, tell us what you want to do.

MR. WALSH: The building for New York Life Insurance has been expanded upon and on the addition they're looking to have a channel sign built that's 24 inches in height 290 inches in, well, 290 and 3/4 inches in depth that would be individual letters mounted on a raceway, on a substantial size fascia area.

MR. KANE: The sign itself is that illuminated in any way?

MR. WALSH: Internally illuminated just the individual letters.

MR. KANE: No flashing?

MR. WALSH: No.

MR. TORPEY: Is the old one lit?

MR. WALSH: Yes, probably not lit now because the transformers are burnt out, they haven't been maintaining it but it is illuminated.

MR. KANE: What about the, I think you had a question about the second wall sign up there, was it absolutely necessary considering the size of this sign?

MR. WALSH: Well, 208 feet, linear feet we're hoping to keep that sign up to avoid taking it down, also to avoid patching up holes that sign leaves behind and cause the building is almost separated as if it was two separate businesses, if you take a look there's a spot that's almost like--

MR. KANE: Kicks back down.

MR. WALSH: Almost like that's a lobby area but it's not, it almost looks like two separate entities and they would like to keep the smaller sign.

MR. KANE: I can see why you would want to, it's a pretty large building going over on that other side.

MR. WALSH: Yeah, 208 feet, I measured that in length.

MR. KANE: Okay, at this point, I will open it up to the public and ask if there's anybody here for this particular meeting? So I will close the public portion of the meeting and bring it back to the board and ask Myra how many mailings we had?

MS. MASON: On the 24th of April, I mailed out ten addressed envelopes and had no response.

MR. KANE: Then I will bring it to the board, ask if there's any questions.

MR. BEDETTI: How does the new proposed sign compare physically in size with the one that's there existing?

MR. WALSH: The existing sign I think I--

MR. KANE: It's 10 x 19 x 9.

MR. WALSH: Yes, 19 feet wide by 18 inches tall is the I think the actual logo that's on there.

MR. BABCOCK: Mr. Chairman, if you look at most buildings this size this length they have several signs because they have several different tenants.

MR. KANE: It's a pretty big building.

MR. BABCOCK: It's only one tenant is the criteria that's it per tenant, it's not per building.

MR. KANE: Right. Any further questions, guys? If not, I'll accept a motion. Go ahead.

MR. BEDETTI: I just had a comment. Essentially, it's the same comment that I made at the initial meeting was I was concerned with the fact that the building resides in a historic zone and I'm very concerned with the proliferation of signs within the town anyplace and especially within the historic zone as we begin to approach from the intersection of 207 and 300 going towards the Cantonment area and going towards the Purple Heart Museum. We're going to have an explosion if we want to keep issuing variances and upgrading based on the way the building was designed and I rode up there a couple times and looked at your building. I think your building is, you can see the sign that's there, it's a very conservative arrangement the way it is, I can certainly see that you've got a long building but there's only one occupant. So again I was concerned with the fact that we're going to have an explosion of signs in an area that I think ought to be kept at a minimum. I would certainly have been in favor of the new larger sign where you have the small sign as opposed to putting multiple signs up for the same business. So that was, and I figure I'd make that comment at this point in time.

MR. KANE: Okay. Any other comments? I will accept a motion.

MR. BEDETTI: I will make the motion that Sign Language

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in New Windsor Business Park be granted for the 460
Temple Hill Road location in a PI zone.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	NO
MR. TORPEY	AYE
MR. KANE	AYE

MR. WALSH: Thank you very much.

FORMAL_DECISIONS

JERRY'S SELF-STORAGE
RETCHO
RIZZI
MMJS, INC.

TOBACK MANGIARACINA
GILLMEIER LAPIDUS/KOCH
DUNKO
HALES

MR. KANE: One more thing to do, gentlemen, we have our formal decisions to vote on. Normally what we have done in the past instead of doing them individually I will take a motion to accept them in one vote if that's okay.

MR. DITTBRENNER: So moved.

MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER AYE

MR. BEDETTI: I'd like to just make a comment with the vote, I thank Myra for sending me copies of these because I didn't participate in them when they did happen and I vote yes.

MR. KANE: Myra's very good.

ROLL CALL (CONTINUED)

MR. TORPEY AYE
MR. KANE AYE

MR. KANE: Motion to adjourn?

MR. DITTBRENNER: So moved.

MR. TORPEY: Second it.

ROLL CALL

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MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

